UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,006	10/12/2001	Charles Brockway	MIDTF/306P2	9617

26875 7590 03/10/2004

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

EXAMINER	
VU, STEPHEN A	

ART UNIT	PAPER NUMBER
3636	

DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/976,006	BROCKWAY ET AL.	
	Examiner	Art Unit	
	Stephen A Vu	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 December 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *8 and 10-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *8 and 10-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Desanta.

Desanta discloses a chair comprising a chair support, a seat section (6) supported on the chair support, a back section (7) mounted for pivotal movement relative to the chair support, and a pair of arm rests (9) rigidly and non-pivotally connected to the back section.

With claim 14, the chair support comprises a chair base (2), a lift arm (5) supported on the chair base, and a chair support assembly (8) supported on the lift arm and rotatably supporting the back section and the seat section.

Claims 8,10, and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Andreasson.

Andreasson discloses a chair comprising a chair support (10), a seat section (11b) supported on the chair support, a back section (13) mounted for pivotal movement relative to the chair support, and a pair of arm rests (14,15) rigidly and non-pivotally connected to the back section.

With respect to claim 10, the back section comprises a back frame and a back cushion on the frame.

With claim 13, a drive mechanism (38) is connected to the back section and operable to pivot the back section relative to the chair support.

With claim 14, the chair support comprises a chair base (18), a lift arm (19) supported on the chair base, and a chair support assembly (40) supported on the lift arm and rotatably supporting the back section and the seat section.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs et al in view of Andreasson.

Krebs et al disclose a chair comprising a chair support, a seat (24) supported on the chair support, a back section (22) mounted for pivotal movement relative to the chair support, and a pair of arm rests (114) pivotally connected to the back section. However, Krebs et al do not show that the arm rests to be rigidly and non-pivotally connected to the back section.

Andreasson discloses a chair comprising a chair support (10), a seat section (11b) supported on the chair support, a back section (13) mounted for pivotal movement relative to the chair support, and a pair of arm rests (14,15) rigidly and non-pivotally connected to the back section. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the arm rests of Krestel et al's chair to be directly connected to the back section as taught by Andreasson, in order to support the arms of the user in one position during the range of movement of the chair from an upright position to the reclined position and back.

With claim 13, a drive mechanism (251) is operatively connected to the back section and operable to pivot the back section relative to the chair support.

With claim 14, the chair support has a chair base (232), a lift arm (45) supported on the chair base, and a chair support assembly (44) supported on the lift arm and rotatably supporting the back section and the seat section.

With claim 15, a yoke member (92) is supported on the lift arm and pivotally supporting the back section and a seat support (36) operable to support the seat section.

Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs et al and Andreasson as applied to claims 1 and 8 above, and further in view of Ginat.

Krebs et al disclose the claimed invention except for the back section to have a back cushion supported on a back frame. Ginat teaches a chair (20) comprising a back having a cushion (28) supported on a back frame. It would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the back section of Krebs et al's chair using a cushion with a back frame as taught by Ginat, in order to provide a cushion means for added comfort and support to a user's lower back side.

With respect to claims 11-12, Krebs et al disclose the claimed invention except for the armrests to be integrally formed with the back frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the arm rests to be integral with the back frame, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Desanta in view of Ginat.

Desanta discloses the claimed invention except for the back section to have a back cushion supported on a back frame. Ginat teaches a chair (20) comprising a back having a cushion (28) supported on a back frame. It would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the back section

of Desanta's chair using a cushion with a back frame as taught by Ginat, in order to provide a cushion means for added comfort and support to a user's lower back side.

With respect to claims 11-12, Desanta discloses the claimed invention except for the arm rests to be integrally formed with the back frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the arm rests to be integral with the back frame, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andreasson.

With respect to claims 11-12, Andreasson discloses the claimed invention except for the arm rests to be integrally formed with the back frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the arm rests to be integral with the back frame, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

Response to Arguments

Applicant's arguments filed December 23, 2003 have been fully considered but they are not persuasive. The applicant has amended claim 8 to include the phrase "patient examination and treatment" to the limitation of the "chair". This amendment

does not provide any patentable features to the chair. Any chair can be used for examination and treatment purposes of a person. In addition, the second amendment to include the word "side" in claim 8, line 11, does not overcome the prior art rejections. Anyone can move out of the chair from the side.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A Vu whose telephone number is 703-308-1378. The examiner can normally be reached on M-F from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen Vu
March 7, 2004

Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600